

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 5/9/2023
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JORGE IGNACIO LUNA ZUNIGA, et al.,

Plaintiffs,

-v -

WILLIAM JAMES BUSHELL CORP., et al.,

Defendants.

----- X

GREGORY H. WOODS, United States District Judge:

1:23-cv-1923-GHW

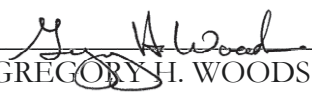
ORDER

On May 5, 2023, Plaintiffs Jorge Ignacio Luna Zuniga and Milton Danilo Sanchez Gauchun submitted a notice of voluntary dismissal, seeking to dismiss this action against Defendant Daniel Yomtobian without prejudice under 41(a)(1)(A)(i). Dkt. No. 17. In *Samake v. Thunder Lube, Inc.*, 24 F.4th 804, 807 (2d Cir. 2022), the Second Circuit concluded that the Court must evaluate voluntary dismissals of FLSA claims without prejudice under Rule 41(a)(1)(A) to ensure that they do not obscure a settlement. As a result, the Court cannot endorse Plaintiff's stipulation of dismissal in its current form without conducting appropriate diligence as mandated by the Second Circuit. The Court will accept a stipulation of dismissal under Rule 41(a)(1)(A)(i) so long as the plaintiffs certify that there has been no settlement of FLSA claims. Counsel are directed to review the Second Circuit's opinion in *Thunder Lube* and to submit a sworn affidavit in support of the notice no later than May 16, 2023.

The Clerk of Court is directed to reinstate Daniel Yomtobian on the docket as an active Defendant in this case.

SO ORDERED.

Dated: May 9, 2023  
New York, New York

  
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GREGORY H. WOODS  
United States District Judge